

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KEVIN ELLIS,

Plaintiff,

-against-

ORDER
20-CV-4241 (JS)

ANDREW SAUL, COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION OF
THE UNITED STATES,

Defendant.

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APPEARANCES

For Plaintiff: Christopher Mark Mukon, Esq.
The Law Office of Christopher Mukon, Esq.
38-11 Ditmars Blvd., #772
Astoria, NY 11105

For Defendant: No appearance.

SEYBERT, District Judge:

On September 10, 2020, plaintiff Kevin Ellis ("Plaintiff") filed a Complaint against the Commissioner of Social Security seeking review of the decision of the Administrative Law Judge pursuant to Section 205(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g), together with an application to proceed in forma pauperis. (IFP. Mot., D.E. 4.) For the reasons that follow, the application to proceed in forma pauperis is DENIED WITHOUT PREJUDICE and with leave to renew upon completion of the AO 239 in forma pauperis application form. Alternatively, Plaintiff may remit the \$400.00 filing fee.

On the in forma pauperis application, Plaintiff has left

blank the question that asks for employment status and reports that he has not received any money from any source within the last twelve (12) months. (See IFP Mot., ¶¶ 2-3.) Plaintiff avers that he has \$0.00 in cash or in a checking or savings account and he wrote "none" in response to the question asking for the identification of anything owned that is of value, including any "automobiles, real estate, stocks, bonds, securities, jewelry, art work or any other financial instrument or thing of value." (See IFP Mot., ¶¶ 4-5.) Although Plaintiff reports "rent" and "food" as his only regular monthly expenses, he does not provide the amount of these expenses. (IFP Mot., ¶ 6.) In response to the question on the form that calls for the description of "[a]ny debts or financial obligations (describe the amounts owed and to whom they are payable)", Plaintiff again wrote "none". (IFP Mot. ¶ 8.)

Thus, because the responses provided by Plaintiff on the in forma pauperis application raise more questions than they answer, and do not permit the Court to conclude that Plaintiff is qualified to proceed in forma pauperis, Plaintiff's application is DENIED WITHOUT PREJUDICE to a renewal thereof upon completion of the AO 239 in forma pauperis application form annexed to this Order. Under the circumstances, Plaintiff can best set forth his current financial position on the long form in forma pauperis application (AO 239). Plaintiff is directed to either remit the

\$400.00 filing fee or complete and return the enclosed in forma pauperis application within fourteen (14) days from the date of this Order. Plaintiff is cautioned that a failure to timely comply with this Order will lead to dismissal of the Complaint without prejudice and judgment will enter.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to include the AO 239 in forma pauperis application form with this Order.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: October 5, 2020
Central Islip, New York